

## Limiting state agency adoption of emergency rules

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HB 158 by Hochberg (Rosson)

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DIGEST:	HB 158 would have allowed a state agency to adopt emergency rules (rules that are adopted without prior notice or hearing) based on state law only if that law specifically referred to the section of the Administrative Procedures and Texas Register Act (VACS art. 6252-13a sec. 5(d)) that allows emergency rules and the law expressly required an agency to adopt an emergency rule. HB 158 would have taken effect January 1, 1994.
GOVERNOR'S REASON FOR VETO:	"This bill prohibits the adoption of emergency rules by state agencies except under specifically enumerated circumstances. State agencies routinely need to adopt rules on an emergency basis in order to properly discharge the duties and responsibilities delegated to such agencies by the legislature. Inappropriate or improper use of emergency rules may be adequately challenged through final rule making process or the courts."
RESPONSE:	Rep. Scott Hochberg, the author of HB 158, was unavailable for comment. Sen. Peggy Rosson, the Senate sponsor, said the bill was an attempt to correct overuse of emergency rules by certain state agencies that have interpreted the standard emergency clause in all bills to authorize issuing emergency rules. "The bill was an attempt to send a message to these agencies that this behavior was unacceptable. If the abuse continues, we will have to look at the issue again next time."
NOTES:	<p>VACS art. 6252-13a sec. 5(d) allows an agency to adopt emergency rules if it finds an imminent peril to the public health, safety or welfare or if a state or federal law requires adoption of a rule on less than 30 days notice.</p> <p>HB 158 passed the House on the Consent Calendar and was not analyzed in a <i>Daily Floor Report</i>.</p>